

REMARKS:

CLAIM AMENDMENTS

To expedite prosecution, the Applicants have amended claim 26 to recite that the bias force is separate from a force that actuates the flap. Support for this feature can be found in the application as filed. Note that in the present application the discussion of the pre-bias force on page 8, lines 1-25 is separate from the discussion of the actuation force, e.g., on page 5, lines 22-31. As such, this amendment introduces no new matter. The Applicants reserve the right to pursue the subject matter of claim 26 as originally filed in a later-filed continuation application.

10

CLAIM REJECTIONS

35 USC 102(b)

The Examiner has rejected claims 26-31 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,396,975 to Wood et al. (hereinafter Wood). In rejecting claim 26, the Examiner argues that Wood discloses a method for operating a MEMS device having a flap that is movable with respect to a base, the method comprising : applying a pre-bias force to the flap to move the flap at least partially out of contact with an underlying base. In rejecting claim 32, the Examiner argues that Wood discloses, in figure 4b and throughout the disclosure, a microelectromechanical apparatus comprising: a base (12), a flap having a portion coupled to the base so that the flap is moveable out of the plane of the base from a first angular orientation to a second angular orientation (14), wherein the base has an opening that receives the flap when the flap is in the second angular orientation (30), the opening having one or more sidewalls, wherein at least one of the sidewalls contacts a portion of the flap such that the flap assumes an orientation substantially parallel to that of the sidewall when the flap is in the second angular orientation, and a sidewall electrode disposed in one or more of the sidewalls (column 34, lines 12+).

20

25

30

The Applicants respectfully traverse the rejection. The Applicants submit that Wood does not teach or suggest a pre-bias force separate from a force that actuates the flap as set forth in claim 26. Instead, Wood teaches only a magnetic force to actuate the pop-up mirror (see col. 8, lines 53-58). As such, Wood does not teach or suggest all the limitations of claim 26. Therefore claim 26 defines an invention suitable for patent protection. Furthermore,

claims 27-31, depend, either directly or indirectly, from claim 26 and recite additional features therefore. As such and for the same reasons set forth with respect to claims 26 Applicants submit that these dependent claims define an invention suitable for patent protection.

5

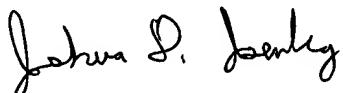
ALLOWABLE SUBJECT MATTER

The Applicants note with appreciation, the Examiner's allowance of claims 32-37.

CONCLUSION

For the reasons set forth above, the Applicants submit that are allowable over the cited art and define an invention suitable for patent protection. The Applicants respectfully request 10 entry of the amendment reconsideration of the application and that the Examiner issue a Notice of Allowance in the next office action.

Respectfully submitted,



15 Joshua D. Isenberg
Reg. No. 41,088
Patent Agent

Date: May 12, 2004

20 JDI PATENT
204 Castro Lane
Fremont, CA 94539
tel.: (510) 896-8328
fax.: (510) 360-9656